



The APPRAISER

A PUBLICATION OF THE ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD

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Opinion Of Value

By Jack Larrison
Board Chairman

There are seven appraiser members of the Arkansas Appraiser Licensing and Certification Board. It is the duty of these seven and the four non-appraiser members of the Board to enforce the numerous provisions of the Uniform Standards of Professional Appraisal Practice (USPAP).

The Board does not create new appraisal policies. Nor does it direct appraisal theory. Our often difficult chore is to decide when and if the sometimes nebulous terminology of USPAP has been violated. And if it has been, we must determine what is a reasonable measure of discipline.

Our routine investigations usually involve Standard One and Standard Two, which are concerned with the formation and reporting of creditable appraisals of real property.

(See *OPINION* page 5)

Complaint Rate No Longer Slow; Board Receives 11 Through July

In May, the Board reported the rate of complaints received about appraisers appeared to be slowing. That didn't last long.

Through July, the Board had received 11 complaints this year, which is a rate that tracks previous years. Of the 11 complaints, 7 came from consumers, 2 from review appraisers, 1 was referred by a government agency, and 1 was initiated by a mortgage/lender.

Five of the 11 were dismissed because the Board's investigations did not find probable cause. Three complaints went on to be considered by a non-judicial panel of the Board, and three are still pending. So far this year, the Board has conducted five non-judicial hearings in an effort to resolve the complaints short of a full administrative hearing.

The leading cause among this year's complaints is appraisers tending to take prepaid assignments and then failing to complete them in a timely manner or neglecting to respond to their clients/borrowers or doing so in a less than cordial or professional manner. The appraisers' attitude seems to be that "I am the appraiser, and what I say is final, and don't bother me with any questions." This certainly does not sit well with the customers.

In addition to the attitude problem, these are the infractions alleged in the complaints filed with the Board:

- * The appraiser failed to consider comparable sales within the neighborhood and went into a more upscale area for comps that appear to push the value;
- * The appraiser made sizable errors in the sales adjustment grid for site amenities;
- * The appraiser failed to respond to a borrower's request to update an appraisal;

(See *COMPLAINTS* page 2)

Visit the Board's website at

www.state.ar.us/alcb/

for directory, regulations, newsletter, forms, and other helpful information

THE APPRAISER

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"The Appraiser" is seeking timely articles or comments on practical appraisal subjects of interest to both residential and nonresidential appraisers from appraisers, lending institutions, and other mortgage lenders. The articles or letters should be sent to the Board's office at the above address.

Entered as second class matter:
United States Postal Service
Little Rock, Arkansas 72201

Do Your Clients Know?

One of your best clients can't find you because you moved and forgot to tell him or the Appraiser Licensing and Certification Board.

You not only missed out on a great assignment but you violated a Board regulation. Appraisers are required to notify the Board office in writing within 30 days about any change in name, principal place of business, or telephone number. (Section 1(K)).

Why is it important to comply with this requirement? Three reasons: 1) It's the rule! 2) You have cut yourself off from information from the agency that regulates your business. 3) Your address and phone number are incorrect in the National Registry.

Complaints

(Continued from page 1)

- * A consumer misunderstood the scope of a drive-by appraisal;
- * A consumer paid the appraiser directly for the appraisal but said he was never provided a copy of the report.
- * An appraiser, in the eyes of a reviewer, failed to diminish property values on the same parcel of land under two different eminent domain takings that were appraised on a retroactive basis with effective dates seven years apart;
- * A client was unhappy with the value rendered on an appraisal based on gross living area that did not treat the basement as living area.

Consent agreements were reached at the three non-judicial hearings. Education remediation and monitoring future work products were the disciplinary results.

Board Executive Director Jim Martin observed that the infractions cited in complaints received this year do not appear to be as serious as those the agency has seen in the past. "This is encouraging...apparently appraisers are doing a better job of reviewing their work products and exercising due diligence in their practices," he said.

Education Offerings

Baker's Professional Real Estate College - Contact Billie Joe Baker (318) 222-7459, Shreveport, LA. "Residential Appraisal, Measuring and Appraising the Residential Properties." 30 hrs. QE/28 hrs. CE beginning Oct. 2.

Kelton Schools - Contact Ron Kelton, (870) 932-7202, Jonesboro, AR, for future continuing education seminars.

Lifetime Learning - Contact Dennis McIlroy, 1-800-383-3365. "Uniform Standards," 15 hrs. QE/CE, Sept. 27-28 and Dec. 20-21; "Advanced Appraisal III," 15 hrs. QE/CE, Oct. 23-24; "Advanced Appraisal IV," 15 hrs. QE/CE, Oct. 25-26.

National Association of Independent Fee Appraisers - Call 1-800-335-1751 for information.

National Association of Master Appraisers (The Lincoln Graduate Center) - Call 1-800-531-5333. These courses to be offered in Little Rock: "#111 USPAP Update," 7 hrs. CE, Sept. 23; and "#669 Manufactured Housing Appraisal," 15 hrs. CE, Oct. 21-22.

RCI Career Enhancement Systems - Contact David Reinold, (501) 968-7752. "Timber and Timberland Fundamentals for Real Estate Professionals and Appraisers," 14 hrs. CE; with exam, 15 hrs. QE; Sept. 18-19, Little Rock.

The Columbia Institute - Contact George Harrison at 1-800-460-3147 for future course offerings.

University Seminars, Inc. (ASU Division) - Contact Don Featherston at (501) 315-8777. "Special Techniques of Income Approach," 15 hrs. QE/CE, Sept. 26-27.

Are You *Being* Pressured?

The Board regularly receives complaints from appraisers who are having trouble collecting fees from out-of-state mortgage brokers. In other instances, appraisers complain about pressure from mortgage brokers to report a specific value. In most cases, the two problems are related: the appraiser probably didn't report the value requested; therefore, payment is delayed.

What's an appraiser to do?

The ETHICS RULE is clear on this issue. "To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics." Both the Conduct and Management sections in the USPAP also apply. "Whenever an appraiser develops an opinion of value, it is unethical for the appraiser to accept compensation in developing that opinion when it is contingent upon:

- 1) the reporting of a predetermined value; or
- 2) a direction in value that favors the cause of the client; or
- 3) the amount of the value opinion; or
- 4) the attainment of a stipulated result; or
- 5) the occurrence of a subsequent event directly related to the value opinion."

If you are having this kind of problem with a mortgage banker, please notify the Board's office. The Board is tracking these complaints and will advise the Arkansas Securities Commissioner about any irregularities.

Conference Provides Opportunity To Look Back (And Forward)

By Don Jordan
Board Vice-Chairman

Valuation 2000, held July 11-13 in Las Vegas, was a first of its kind—a conference held by multiple appraisal organizations. The key sponsors were the American Society of Appraisers (ASA), the Appraisal Institute (AI), and the American Society of Farm Managers and Rural Appraisers (ASFMR), but the IRWA, IFA, NSREA, ISA, the Appraisal Foundation, Appraisal Subcommittee, AARO, and several foreign countries also participated.

More than 2,000 registered participants were able to choose from among 80 half-day sessions on varying topics to attend during the three-day conference. I concentrated on technology subjects—what exists now and what is coming—and also attended two sessions on international appraising because I wanted to find out what other countries are doing in the profession and how they stand on such matters as standards and ethics. Persons from Canada, the United Kingdom, Australia, Malaysia, South Africa, and Mexico discussed their country's appraisal regulation status at the sessions I attended.

American Appraisers need to stay alert on the issue of International Valuation Standards.

These standards are in published form, and 52 countries have adopted them. Pressure is being exerted on the United States to join, but there are some fundamental differences that prevent this now.

I also attended part of the AQB summer meeting at which certifying instructors to teach USPAP was discussed. A final decision was postponed until October. The Arkansas Board is opposed to this requirement, and the AQB knows this. However, of the 21 states that have weighed in on this issue to date, only seven are opposed.

The issue of requiring a college degree for licensing and certification as an appraiser also was discussed by the AQB, but I had to leave the meeting before it ended. The Arkansas Board has not taken a position on this issue yet because it is relatively new. If the AQB hasn't acted on this yet, we need to monitor it. I'm sure the Arkansas Board would like to hear from appraisers in the state if there are strong feelings one way or the other.

I found the conference was a high-quality event with knowledgeable speakers, including Hjalma Johnson, president of the American Bankers Association; former U.S. Sen. George Mitchell (D-Me.); Thomas Wilson of the Internal Revenue Service; and Don Tapscott, who is a technology expert with a mile-long list of credentials.

Arkansas participation was low—two practicing fee appraisers, two review appraisers from the Army Corps of Engineers, and a farm manager—for a total of five. We suspect there will be similar conferences in the future because this one was such a success.

Questions and Answers from the ASB

(EDITOR'S NOTE: *The Appraisal Standards Board does not establish new standards or interpret existing ones. Its USPAP Q&A is issued to regulators to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice in specific situations, and to offer advice for the resolution of appraisal issues and problems. This does not constitute a legal opinion of the ASB.*)

QUESTION: I recently was engaged to conduct a market value appraisal of a one-to-four unit residential property. The intended use of the appraisal was for mortgage lending purposes associated with the property's purchase. I requested a copy of the purchase contract from the client, but they refused to provide it although they acknowledged a contract for purchase of the property in fee simple existed. However, they did provide a sale price verbally. Can I continue this assignment, without the purchase contract, and still comply with USPAP?

ANSWER: Yes, you can complete the assignment in compliance with USPAP. However, you will need to ensure compliance with Standards Rule 1-5(a) in developing the appraisal, and Standards Rule 2-2(a)(ix), (b)(ix), or (c)(ix), as applicable to the type of appraisal report involved, in reporting the assignment results. Note that all of these Standards Rules are binding requirements.

Standards Rule 1-5(a) states: *In developing a real property appraisal, an appraiser must:*

(a) analyze any current Agreement of Sale, ..., if such information is available to the appraiser in the normal course of business;

The Comment to Standards Rule 1-5 states:

See the Comments to Standards Rules 2-2(a)(ix), 2-2(b)(ix), and 2-2(c)(ix) for corresponding reporting requirements.

For example, the corresponding reporting requirements in Standards Rule 2-2(a)(ix), in the Comment, are, in part:

... If such information was un-

New Q&A Book Is Available

A book containing 107 commonly asked questions and answers about USPAP has been published by The Appraisal Foundation and is available to the public.

The first annual edition of *Frequently Asked Questions* contains opinions of the Appraisal Standards Board (ASB) that illustrate the applicability of appraisal standards in specific situations and offer advice to resolve appraisal issues and problems. It also contains a comprehensive index that can be used to search for questions and answers on specific topics.

A single copy costs \$25 with volume discounts available. The book may be obtained by e-mailing: Mavis@appraisalfoundation.org or calling 202-624-3050.

obtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required.

Completing these binding requirements ensures that the existence and unavailability of the purchase contract are disclosed appropriately, and any reader of the appraiser's report will not be misled about how this situation was handled in the analysis and report.

QUESTION: I am performing an appraisal of a single-family dwelling that is used as a rental property. The purpose of the appraisal is to

develop an opinion of market value for the fee simple interest. The current lease on the property is significantly below market and runs for another 24 months past the date of value in my appraisal. Further, the lease would survive a transfer of ownership. Does USPAP require that I analyze and reflect the existence of the lease in the valuation? **ANSWER:** No, because the subject of your assignment is the fee simple interest, not the leased fee interest.

However, given the difference between the ownership to be reflected in the appraisal and the actual ownership, this assignment requires the use of a hypothetical condition, i.e., the fee simple interest is contrary to the known ownership condition. The use of the hypothetical must be in compliance with Standards Rule 1-2(h), and its use must be disclosed properly in any written or oral real property appraisal report as required by Standards Rule 2-1(c). The disclosure requirement is stated in Standards Rule 2-2(a), (b), or (c)(x) for a written report and in Standards Rule 2-4 for an oral report.

Not disclosing the lease and its effect (if any) on the opinion of value and marketability would be a violation of Standards Rule 2-1(c), which states, *"Each written or oral real property appraisal report must: ...clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the appraisal and indicate its effect on value."*

In this example, the length of the lease, the below-market nature of the lease, and its survivorship of transfer are factors that should be included as part of the hypo-

(See *QUESTIONS AND ANSWERS*, page 5)

7 Appraisers Drop Licenses

Seven appraisers failed to advise the Arkansas Appraiser Licensing and Certification Board about their status or intent to renew their licenses by the June 30 deadline. The appraisers who have allowed their licenses to lapse as a result are:

David Dallas - CG0965

Donald Gantz - CR1488

Tim Gary - CR0928

William Gunderman - SL0800

Frank Reeder - CR0408

Thomas Watson - SL1075

Lisa Woodson - CG0302

Users of appraisal services should note that these persons no longer have the proper credentials to appraise federally related transactions and their names have been removed from the Federal Registry.

Questions and Answers

(Continued from page 4)

thetical condition disclosure in any written or oral real property appraisal report. Your appraisal report should ensure any user of the appraisal recognizes that the value of the leased fee interest in the property has not been reflected in the appraisal.

QUESTION: It has come to my attention that a local appraiser is paying a home inspection firm a \$25 referral fee for each appraisal assignment the home inspector refers to the appraiser. Is it unethical to accept an assignment if the appraiser paid a fee for the assignment?

ANSWER: No, but accepting such a fee requires specific disclosures.

The Management section of the Ethics Rule reads, "The payment of undisclosed fees, commissions, or things of value in connection

Opinion

(Continued from page 1)

As part of the process, the Board investigates a wide range of complaints, most of which are dismissed. All of the complaints, however, provide some insight into the concerns of property owners or the users of the appraisals that we produce.

All elements of the appraisal report and the appraisal process are scrutinized carefully in the investigation process. There is a box on the URAR that asks the appraiser to say whether a *personal* inspection was made of the subject and the comparable sales. In several instances, the thoroughness of the appraiser's inspection of the property has been brought into question. In one instance, the appraiser claimed the inspection was made by reviewing video tapes of the property made by another person. In another instance, inspections of the comparables were made by reviewing photos made by others.

I don't know if either of these practices is a USPAP violation, but it seems that both could deteriorate into a serious infraction if not examined. Videos and photos, it seems to me, are used best to *refresh* our memories of what we have seen personally and *not to take the place* of our mental images.

Please be careful!

with the procurement of appraisal, appraisal review, or consulting assignments is unethical."

The Comment to the Management section goes on to say, "Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification of a written report and in and transmittal letter in which conclusions are stated. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development are

Status Report

As of August 25, 2000, Board records show these totals for appraisers:

| | |
|----------------------------------|-----|
| State Certified General | 362 |
| State Certified Residential | 295 |
| State Licensed | 99 |

(Includes Temporary and Non-Resident Appraisers)

NEXT EXAM

April 7, 2001

Potential applicants should contact the Board's staff for current information on the application process, exam schedules, fees, and other licensing-related matters by calling (501) 296-1843, or through its website at www.state.ar.us/alcb/ or write the Arkansas Licensing and Certification Board at 2725 Cantrell Road, Suite 202, Little Rock, AR 72202.

not considered to be unethical. Competency, rather than financial incentives, should be the primary basis for awarding an assignment."

Therefore, payment of the referral fee to the home inspection company is acceptable as long as this relationship is disclosed in the appraisal certification and any transmittal letter where conclusions are stated.

QUESTION: I recently completed an appraisal and forwarded the report to the client. After receiving the report, the client called and said they had another appraisal that was completed recently and the values differed significantly. The client asked if I would look over the other report and point out the primary differences. Does this as-

(See QUESTIONS AND ANSWERS, page 5)

Question and Answer

(Continued from page 5)

signment constitute an appraisal review?

ANSWER: No. In this case, the client is not asking you to assess the quality of the other appraisal or your opinion of its conclusions. Because you are only noting the differences between the two appraisals, you are not performing an appraisal, appraisal review, or consulting assignment.

QUESTION: A new bank client recently sent me a letter acknowledging that my firm had been approved to conduct appraisals for their company. It goes on to state that we are now "preferred providers," and expresses the bank's desire to embark on a mutually beneficial long-term relationship. The letter ends with a solicitation of my

firm's banking business as part of this mutually beneficial relationship. I would like to make them happy because they could provide my firm a great deal of business. If I take my banking business to this company while I'm engaged as an appraiser, would I be violating USPAP?

ANSWER: This depends on whether the bank's approval of your firm as a "preferred provider" is conditional on you moving your banking business to that bank. The Management section of the ETHICS Rule in USPAP reads:

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of appraisal, appraisal review, or consulting assignments is

unethical.

Comment: *Disclosure of fees, commissions or things of value connected to the procurement of an assignment must appear in the certification of a written report and in any transmittal letter in which conclusions are stated. ...*

If the lender has stated that your firm can only have its appraisal business if you bank there, this relationship must be disclosed as described in the ETHICS RULE.

However, if the client is merely soliciting your business as it would any other potential customer, and you subsequently moved your banking business to it, there is no requirement in USPAP to disclose your banking relationship.

ARKANSAS



APPRAISER LICENSING & CERTIFICATION BOARD

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